

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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RICHARD FREJOMIL,

Plaintiff,

-v-

10-CV-1579

KEITH BEATTIE, Corrections Officer, Great Meadow Correctional Facility; and JAMES YOLE, Corrections Officer, Great Meadow Correctional Facility,

Defendants.

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APPEARANCES:

RICHARD FREJOMIL  
Plaintiff Pro Se  
No. 88-A-6324  
Great Meadow Correctional Facility  
Box 51  
Comstock, NY 12821

HON. ERIC T. SCHNEIDERMAN  
Attorney General for the State of New York  
Attorney for Defendant  
The Capitol  
Albany, NY 12224

DAVID N. HURD  
United States District Judge

OF COUNSEL:

ADRIENNE J. KERWIN, ESQ.  
Ass't Attorney General

**DECISION and ORDER**

Plaintiff brought this civil rights action pursuant to 42 U.S.C. § 1983. On March 3, 2011, defendants moved to dismiss the complaint and the motion was briefed. Plaintiff has since died. On November 28, 2011, the Honorable David R. Homer, United States

Magistrate Judge, advised, by Report-Recommendation, that defendants' motion to dismiss, Dkt. No. 11, be denied without prejudice to renew upon the filing or ordering of a substitution for Frejomil as the plaintiff in this action. No objections to the Report-Recommendation were filed.

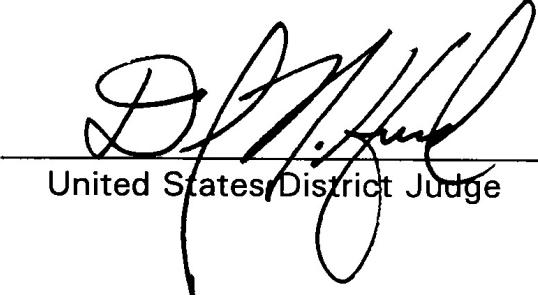
Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. 636(b)(1).

Therefore it is

ORDERED that

Defendants' motion to dismiss is DENIED without prejudice.

IT IS SO ORDERED.



United States District Judge

Dated: December 22, 2011  
Utica, New York.